

**UNITED STATES OF AMERICA  
JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

**CHAIRMAN:**  
Judge Wm. Terrell Hodges  
United States District Court  
Middle District of Florida

**MEMBERS:**  
Judge John F. Keenan  
United States District Court  
Southern District of New York

Judge Bruce M. Selya  
United States Court of Appeals  
First Circuit

Judge Julia Smith Gibbons  
United States Court of Appeals  
Sixth Circuit

Judge D. Lowell Jensen  
United States District Court  
Northern District of California

Judge J. Frederick Motz  
United States District Court  
District of Maryland

Judge Robert L. Miller, Jr.  
United States District Court  
Northern District of Indiana

**DIRECT REPLY TO:**

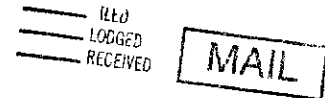
Michael J. Beck  
Clerk of the Panel  
One Columbus Circle, NE  
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<http://www.jpml.uscourts.gov>

June 12, 2003

Bruce Rifkin, Clerk  
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U.S. Courthouse  
1010 Fifth Avenue  
Seattle, WA 98104-1130



JUN 16 2003

AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
DEPUTY

Re: MDL-1407 -- In re Phenylpropanolamine (PPA) Products Liability Litigation

(See Attached Transfer Order)

Dear Mr. Rifkin:

I am enclosing a certified copy and additional copies of an order filed by the Judicial Panel on Multidistrict Litigation in the above-captioned matter. The act creating the Panel provides that:

Orders of transfer ... shall be filed in the office of the clerk of the district court of the transferee district and shall be effective when thus filed. The clerk of the transferee district court shall forthwith transmit a certified copy of the panel's order to transfer to the clerk of the district court from which the action is being transferred. 28 U.S.C. § 1407(c).

As is also required by the statute, a copy of the order is being sent to the clerk for the District of New Mexico, the district in which the hearing on this matter was held on May 29, 2003.

A list of involved counsel is attached.

Very truly,

Michael J. Beck  
Clerk of the Panel

By

Deputy Clerk



01-MD-01407-ORD

**Enclosures/Attachment**

cc: Transferee Judges:	Judge Barbara Jacobs Rothstein
Transferor Judges:	Judge Samuel F. Bieri, Judge Jerry Buchmeyer, Judge David R. Herndon, Judge Sam A. Lindsay, Judge G. Patrick Murphy, Judge John D. Rainey, Judge Michael J. Reagan, Judge William D. Stiehl, Judge Anna D. Taylor
Transferor Clerk:	David J. Weaver, Karen S. Mitchell, Michael N. Milby, Norbert G. Jaworski, William G. Putnicki
Hearing District Clerk:	Robert M. March

**A CERTIFIED TRUE COPY**

**JUN 12 2003**

ATTEST  
FOR THE JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATION

MAIL  
JUN 12 2003  
JUDICIAL PANEL ON  
DISTRICT LITIGATION

**DOCKET NO. 1407**

**JUN 16 2003**

FILED  
CLERK'S OFFICE  
AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WEST DISTRICT OF WASHINGTON  
DEPUTY

**JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

**IN RE PHENYLPROPANOLAMINE (PPA) PRODUCTS LIABILITY LITIGATION**

*Betty Andrews v. Wyeth Consumer Healthcare, Ltd., et al., S.D. Illinois, C.A. No. 3:02-1259*  
*Vinell Jones v. Bayer Corp., et al., S.D. Illinois, C.A. No. 3:02-1261*  
*Loretta Rorie v. Bayer Corp., et al., S.D. Illinois, C.A. No. 3:02-1262*  
*Robert McNeil v. Wyeth, Inc., et al., S.D. Illinois, C.A. No. 3:02-1265*  
*Louis Siciliano v. Wyeth, Inc., et al., S.D. Illinois, C.A. No. 3:02-1272*  
*Cindy Berisford v. Wyeth Consumer Healthcare, Ltd., et al., S.D. Illinois, C.A. No. 3:02-1274*  
*Alva Franklin v. Chattem, Inc., et al., S.D. Illinois, C.A. No. 3:02-1282*  
*Christina Neu v. Chattem, Inc., et al., S.D. Illinois, C.A. No. 3:02-1284*  
*Judith De Lisle v. Chattem, Inc., et al., S.D. Illinois, C.A. No. 3:02-1285*  
*David Brown v. SmithKline Beecham Corp., et al., S.D. Illinois, C.A. No. 3:02-1286*  
*Laura M. Bonucchi v. Welpharm, Inc., et al., E.D. Michigan, C.A. No. 2:02-75100*  
*Selia Luz Rodriguez v. Advocare International, LLC, et al., N.D. Texas, C.A. No. 3:02-2733*  
*Lynne Grant, et al. v. Advocare International LLC, et al., N.D. Texas, C.A. No. 3:02-2737*  
*Angela Lea, et al. v. Chattem, Inc., et al., S.D. Texas, C.A. No. 4:02-4865*  
*Charles Jackson, etc. v. Bayer Corp., et al., W.D. Texas, C.A. No. 5:02-1207*

**BEFORE WM. TERRELL HODGES, CHAIRMAN, JOHN F. KEENAN, BRUCE M. SELYA,\* JULIA SMITH GIBBONS, D. LOWELL JENSEN,\* J. FREDERICK MOTZ AND ROBERT L. MILLER, JR., JUDGES OF THE PANEL**

**TRANSFER ORDER**

Before the Panel are motions brought, pursuant to Rule 7.4, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001), by plaintiffs in ten Southern District of Illinois, one Eastern District of Michigan and four Northern, Southern and Western District of Texas actions. Plaintiffs seek to vacate Panel orders conditionally transferring their respective action to the Western District of Washington for inclusion in the centralized pretrial proceedings occurring there in this docket before Judge Barbara Jacobs Rothstein. Various defendants in the actions have responded in support of transfer of their respective action(s).

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\*Judge Selya participated in the disposition of this matter only with respect to two of the Southern District of Illinois actions (*Rorie* and *Neu*), the Eastern District of Michigan action, and the Western District of Texas action. Additionally, Judge Jensen took no part in the disposition of this matter with respect to the Eastern District of Michigan action.

On the basis of the papers filed and hearing session held, the Panel finds that these ten actions involve common questions of fact with actions in this litigation previously transferred to the Western District of Washington, and that transfer of the actions to that district for inclusion in the coordinated or consolidated pretrial proceedings occurring there will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. The Panel is persuaded that transfer of the actions is appropriate for reasons expressed by the Panel in its original order directing centralization in this docket. The Panel held that the Western District of Washington was a proper Section 1407 forum for actions brought by persons allegedly injured by products containing Phenylpropanolamine (PPA) – a substance which, until it recently became the subject of a public health advisory issued by the Food and Drug Administration, was used as an ingredient in many nasal decongestants and weight control products. See *In re Phenylpropanolamine (PPA) Products Liability Litigation*, 173 F.Supp.2d 1377 (J.P.M.L. 2001).

The plaintiffs premise much of their opposition to transfer on their argument that federal jurisdiction is lacking in their actions. They urge the Panel not to order transfer before remand motions are resolved by the appropriate transferor court. We note that remand and other motions, if not resolved in transferor courts by the time of Section 1407 transfer, can be presented to and decided by the transferee judge. See, e.g., *In re Ivy*, 901 F.2d 7 (2nd Cir. 1990); *In re Prudential Insurance Company of America Sales Practices Litigation*, 170 F.Supp.2d 1346, 1347-48 (J.P.M.L. 2001).

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, these fifteen actions are transferred to the Western District of Washington and, with the consent of that court, assigned to the Honorable Barbara Jacobs Rothstein for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket.

FOR THE PANEL:



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Wm. Terrell Hodges  
Chairman

**INVOLVED CLERKS LIST (CTO-29)**  
**DOCKET NO. 1407**  
**IN RE PHENYLPROPANOLAMINE (PPA) PRODUCTS LIABILITY LITIGATION**

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